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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------|------------------|
| 09/657,111 | 09/07/2000 | Curtis A. Vock | 4513/011 (L&G 389014) | 1286 |
| 24283 | 7590 | 06/28/2004 | EXAMINER | |
| PATTON BOGGS 1660 LINCOLN ST SUITE 2050 DENVER, CO 80264 | | | LAU, TUNG S | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2863 | |

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 09/657,111 | Applicant(s) VOCK ET AL. | |
| | Examiner Tung S Lau | Art Unit 2863 | |

-- Th **MAILING DATE** of this communication app ars on th cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 8-11 is/are allowed.
6) ☒ Claim(s) 1-4 and 6 is/are rejected.
7) ☒ Claim(s) 5, 7 and 12 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 3, 4, 6 are rejected under 35 U.S.C. 102(e) as being anticipated by
Flentov et al. (U.S. Patent 6,516,284).

Regarding claim 1:

Flentov discloses a method for determining peak altitude of a moving sportsman, comprising: viewing the sportsman through a digital camera (fig. 1, unit 16, fig. 2a, Col. 8-9, Lines 61-18); assessing frames of data provided by the digital camera to locate motion within the frames of data (Col. 2, Lines 31-67); and determining the peak altitude by comparing the highest point of motion by the sportsman within the frames of data to a reference object (Col. 8-9, Lines 61-18, fig. 1, fig. 2a, 3, unit 52).

Regarding claim 2, 3, 4, 6 :

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Flentov discloses through a data link and evaluating data within the frame (fig. 2a, 1); determine airtime from track automatically (abstract), successive frame of data (fig. 2a, 2b).

Claim Objections

2. Claims 5, 7, 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitation of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: prior art fail to teach digital camcorder, movement of sportsman through successive frame of data, capturing the frame of data at least 30 HZ.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Allowable Subject Matter

3. Claims 8-11 are allowed.

Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance:

Independent claim 8 contains allowable subject matter. None of the prior art of record shows or fairly suggests the claimed invention.

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Regarding claim 8:

The primary reason for the allowance of claim 8 is the inclusion of the method steps of: determining the airtime of moving sportsman including mounting a radio beacon through triangulation to determine the location of the sportman. It is these features found in the claim, as they are claimed in the combination, that has not been found, taught or suggested by the prior art of record which makes this claim allowable over the prior art.

Claims 9-11 are allowed due to their dependency on claim 8.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

5. Applicant's arguments filed 6/10/2004 have been fully considered but they are not persuasive.

A. Applicant argues in the lengthy arguments that the prior art does not show the 'capture image data'. Flentov discloses show 'capture image data' in fig. 2b, 3, 14, 18, Col. 3, Lines 15-45. where Flentov discloses the capture of image data in less than 500ms Col. 3, Lines 15-45 related to fig. 2b, 3, 14, 18.

B. Applicant continues to argue that the prior art does not show the word 'frame of data'. Although the word 'frame' was not use, but the meaning of the frame is shown by Flentov's invention. In Fig. 4, show the frame of data within several time interval, t1, t2. in fig. 11, frame of data was capture as slower, faster, slower over period of time interval. In fig. 18, show the system can detect the distance travel in time, frame of data was capture in 302, 304, 310 point in time. In Col. 3, Lines 15-45 Flentov discloses how data can capture in 'frame' less than 500ms. Reminds to the applicants that during patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). While the meaning of claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allowed. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 571-272-2274. The examiner can normally be reached on M-F 9-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TL



John Barlow
Supervisory Patent Examiner
Technology Center 2800